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COMPLEX INTERNATIONAL CONFERENCE**

PROCEEDINGS OF

**2021
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CONFERENCE**

DATE: 1ST - 3RD NOVEMBER, 2021

**THEME:
MANAGEMENT OF INFORMATION,
KNOWLEDGE, RESEARCH AND INNOVATION
FOR SUSTAINABLE DEVELOPMENT.**

Held at: PG e-LIBRARY, KASHIM IBRAHIM LIBRARY
Ahmadu Bello University Zaria, Kaduna State, Nigeria

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Ladies and Gentlemen,

Good morning. Welcome, everybody! It is with incredible delight that I welcome you all to the Maiden Conference of Ahmadu Bello library Complex, Zaria, from 1st – 3rd, November, 2021. The Conference's theme is, "Management of Information, Knowledge, Research and innovation for Sustainable Development" is targeted towards achieving the United Nations Sustainable Development Goals. On behalf of the Local Organizing Committee (LOC), I wish you all successful conference participation. Thank you all for being here today both physically and virtually.

SPECIAL GUESTS OF HONOUR

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MANAGEMENT OF SHARIA COURTS' RECORDS IN KADUNA STATE,
NIGERIA

BY

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and

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Abstract

Generally, Court records are presumed to be open for public access, unless those records that fall into certain exceptions deemed to be confidential. The philosophy of open records is that government and the public interests are better served when records are open for public inspection and consultations for research and other purposes. Managing records in the judicial system is the key success factor. To achieve ideal management of courts' records experienced, competent and knowledgeable personnel should be entrusted with the responsibility of managing the courts records. The enabling and conducive environment for easy access by researchers and other categories of consultants of the records should be created. Good accommodation with enough space should be provided for the records with professional arrangement for easy retrieval whenever the need arises for whatever reasons. Preventive measures to safeguard the records from destruction by things like rain, heat, moisture, theft/mutilation and the like should be on ground. Conditions for accessing the records should be simplified so that genuine and relevant consultants are not unnecessarily denied access. If the above measures are achieved, the functional role of dissemination of information by the courts records can easily be realised.

Keywords: Sharia Courts, Records, Kaduna State, Nigeria

Introduction

Court records, unlike those in the Libraries and Information Centres' settings, have restricted accessibility which makes them little known to the general public. By this it also means that their richness in terms of contents, documentation and management cannot be appreciated and explored; whether the courts records, documentation and management conform to the best practices and international standards remains absurd. In Nigeria, the implementation of Sharia legal system in the Nation's judiciary led to the proliferation of Sharia Courts in the Northern part of the country (Ladan, 2014).

This development necessitates the need for in-depth concept of Sharia Courts records, as used within the context of this research; refers to all records on cases filed by complainants in the Sharia Courts registry for trials by the Judges. These include, the data/information being derived from the complainants and defendants and persons involved directly or indirectly in cases. Also constituting Sharia Courts records are the records of lawyers/counsels and judgements delivered by trial judges as the case may be. However, affidavits, statutory age declaration sworn to at the courts, police and prosecutors' records are not considered as part of courts records.

Establishment of Sharia Courts in Nigeria

The establishment of Sharia Courts which generate sharia courts records, started after the Sokoto Jihad of the mid-19th Century operated side by side with Friday mosques mostly at the Emirs' palaces or in mosques like during the time of the Holy Prophet Muhammad (SAW). Later separate buildings were erected to serve as the Sharia Courts. The emirs initially served as both rulers and judges. It is indeed a fact that during this period, Sharia was so much entrenched in the Northern Nigeria, a fact that made Clapper ton when he visited the Sokoto Caliphate during the reign of Sultan Muhammad Bello to note that the laws of the Qur'an were in his (Bello's) time so strictly put in force... that the whole country, when not in a state of war, was so well regulated that it is a common saying that a woman might travel with a casket of gold upon her head from one end of Fellata dominions to the other.

However, colonization and its masters affected the smooth operation of sharia in Nigeria. Initially the British colonizers did not interfere with the system they met already entrenched in the colonies. But this promise was not adhered to as no sooner they settled than they began introducing inimical changes to the implementation of the Sharia. The British started passing ordinances that counter the operation of Sharia legal system. Sharia was restricted to law of personal status and on the other hand introduced the English law and placed it above the Sharia system they met. Sharia was equated to Native law and subjected to the English law. Unlimited powers were given to the colonial administrators to supervise and subjugate the Sharia Courts. In fact, the British colonial masters ensured the colossal collapse of the polity and Sharia legal system as well as economic system and the social justice they met in terms of imposition of the Penal Code of Northern Nigeria.

The introduction of English as official language helped in eclipsing Arabic language associated with the Sharia and consequently the Islamic educational system. Lord Lugard withdrew his recognition of Sharia Court; breaking his promise of non-interference. Sharia was seriously paralyzed especially through the activities of Assistant Officers posted to Nigeria from Britain who were mandated to temper with the Native Courts decisions. Magistrate, High and Supreme Courts were introduced to undermine the Sharia Courts after the amalgamation of Northern and Southern protectorates in 1914, to give birth to Nigeria as it is today. This development was among other things intended to water down what they considered harsher and more drastic penalties prescribed in the Sharia such as the death, decapitation or stoning and amputation of the limbs. This is how Sharia continued to be undermined throughout the colonial era up to post-independence era.

However, with the emergence of the 4th Republic in 1999, the first elected civilian Governor of Zamfara State, Alhaji Sani Yariman Bakura led Sharia implementation crusade that saw the establishment of Sharia courts in the State. The Governor upon inauguration, constituted an 18-member law review committee to, among others, examine and review all existing laws and edicts to make them conform with the traditions, culture, values and norms of the people of the state. The committee submitted its report and recommended, among others, that the Sharia penal law can 'fully' be enforced without offending any of the provisions of the constitution.

Consequently, using the 1999 Constitutional Provision S.6(5) which empowers a State Governor to establish such other Courts as may be authorized by law, the Zamfara State Governor, used this opportunity to re-introduce Sharia including its criminal justice

system. The Governor submitted a draft Sharia Penal Code law together with Sharia criminal procedure Code law which were passed into law.

Although, the resurfacing of the Islamic legal system gave birth to some controversial legal issues such as arm amputations for established cases of theft and stoning/flogging in cases of established adultery/fornication. In fact, critics of the Sharia implementation in any part of Nigeria use these controversial legal issues to vehemently oppose its adoption. Despite these oppositions, the Zamfara tempo influenced the establishment of Islamic Legal Systems in many states of the Northern Nigeria that are predominantly populated by the Muslims. Thus, Sharia laws were enacted in such states as Bauchi, Gombe, Kaduna etc.

However, in Kaduna State of Nigeria, religion has become a subject of controversy between Christians and Muslims since the 1980s. Therefore, introduction of Islamic Sharia law in 2000 in Kaduna state against the secular state status and principle of the Nigerian Constitution sparked one of the most violent conflicts ever witnessed in the state (Alao2016), resulting to worsening interplay between religion and ethnicity in the state which has added to the security challenges in Nigeria (Alao 2016).

Types of Records Found in Sharia Courts

Sharia court records are one branch of the legal records which comprise the other two as stated earlier; police and prosecutor records. Sharia court records which are also judicial records include; criminal records, civil case records and probate records.

The Freedom of Information Act of Scotland (2002) defines a sharia court record as: indictments (documents setting out charges in criminal cases) or written pleadings outlining the arguments to be put before the court, citations, specifications of documents, skeleton arguments and affidavits." Sharia court records "Shall include all documents and records that are part of the court files of each case and all books, papers, calendars, statistical schedules and reports and other records pertaining to the management of court cases".

As mentioned earlier the courts create several categories of records in the process of court proceedings. The court creates three categories of records namely; criminal records, civil records and probate records. According to IRMT (1999) states that the courts have civil or criminal case files, which come into one of the following records; record books, order books, judgement books, appeals, original wills and registers of precedent. The probate files also which deals with wills and inheritance.

Criminal records include treason cases and other offences against the state, terrorism, genocide, offences punishable by death, cases of life imprisonment, large scale frauds among others (the records emanating from these are charge sheets, criminal summons, indictment, affidavits file etc), while civil records cases include registers, diaries, case files, originating summons file, miscellaneous applications, plaint file, awards file, divorce file etc. The probate records are succession files, letters of administration and a grand of probate among others.

Sharia Courts' Records

Sharia courts records are mainly generated by the Registrar of the Court who sorts out the complaints accordingly in their appropriate groups either civil or criminal and register the cases accordingly after payments of the accompanying fees by the complainants. Receipts of payments and other necessary documents are given to the complainants, while letters of summons are delivered to the defendants. The Registrar fixes the initial dates of hearing cases by the trial Judge.

The Khadi (Sharia Judge) plays much greater role in generating court records than the Registrar. The Khadi, tries legal cases brought before him from the beginning to the end until they are decided and judgements delivered. Each time a session for a case is held, the deliberation made, constitute court records, hence the number of sessions held before they are concluded, the number records is generated. Some cases take longer sessions and periods to terminate such as weeks, months and even years to end depending on their nature and complications. The Court Clerks who work hand in hand with the Khadis take down records of all proceedings in the Court Hall and some times in the Khadi's Chamber. The clerks record adjournment of cases and dates of resumption with the directive of the Khadi which also forms part of the Court records.

Management of Sharia Courts Records

Records management is fundamental for good governance, effective and efficient administration. It forms the basis for formulating policies, managing resources and service delivery. It enables an organisation to find information easily and orderly efficient flow of information enables an organisation to perform its functions successfully and efficiently. Corroborating the above submission, Dearstyne (1985), posits that records are essential to the administration of government institutions. Records contain the information that keeps government programmes functioning; they give government officials basis for making decisions, administering programmes and providing administrative continuity with past operations. Records increase accountability of government and its officials.

Records management is about controlling records within a comprehensive regime made up of policies, procedures, systems, processes and behaviours. Together they ensure that reliable evidence of actions and decisions is kept and remains available for reference and use when needed. Sharia courts records, in Nigeria are generated in huge volumes daily predominantly in paper format. Effective management of these records is the key success factor in the judicial system. Systematic, efficiency and organised records management system provides comprehensive information for courts to guarantee unbiased process of decision making. Good records management among other things helps in avoiding delayed decisions in the Judicial system.

Records management is fundamental for good governance, effective and efficient administration. It forms the basis for formulating policies, managing resources and service delivery. It enables an organisation to find information easily and orderly efficient flow of information enables an organisation to perform its functions successfully and efficiently. Corroborating the above submission, Dearstyne (1985), posits that records are essential to the administration of government institutions. Records contain the information that keeps government programmes functioning; they give government officials basis for making decisions, administering programmes and providing administrative continuity with past

operations. Records increase accountability of government and its officials. It is therefore imperative that for the purpose of transparency and accountability, governmental institutions should create and maintain authentic, reliable and usable records. The significance of records and information management cannot be over emphasized.

Records play important role at any given stage in the life cycle of an organization. These include recruitment, training and development, promotion, transfer, implementation, monitoring, appraisal, separation, pension, organizational development etc, and they are therefore an essential informational resource. Records or information management is anchored on the premise that records require managing, in a like manner that other government resources need managing. Information should be regarded and managed as fully important as other administrative functions since records are at the center of governmental operations. For example, transparency and accountability can be achieved by giving the public the right of access to information and this can only be achieved through accessible and sound records management.

According to Dearstyne (1985), records management is about overseeing the creation and use of forms, correspondence, and other records, setting up filing and indexing systems and other means of ensuring easy, rapid access to the information in records; adopting and using modern technology in information creation, storage, and manipulation, particularly micro-film and automated data processing systems; microfilming of selected paper records for security, ease of access, disposition of the bulk paper records after microfilming, and long-term preservation of important information, and systematically disposing of records. Components of record management, (World Bank Group,2000) whether in the public or private sector, involves creation, storage, retrieval, maintenance, disposition and the use of compact and other manual or electronic means.

Filing is the process of making a legal document to become part of public record or the art of putting something into a file. The main purpose of filing is to manage data by way of storing, retrieving as well as updating. An effective filing classification system uses the most logical, practical and flexible type of system for the information involved. Filing system is mainly of three types alphabetical, numeric and alphanumeric with each of these filing systems having its strengths and weaknesses depending on the type of information to be classified and filed.

In addition, each type of filing system can be splitted into subgroups. Filing has some important methods such as filing by subject/category, alphabetical order, numerical order, places/geographical order, dates/chronological order etc. Filing helps in keeping documents safe and in good conditions. Filing involves some basic steps which includes conditioning, releasing, indexing and coding. Records filing system is planned method of classifying and arranging records for storage and retrieval.

By contrast Mortimer Taube (1999) has defined documentation in operational terms as "the complex of activities required in the communication of specialized information including the preparation, reproduction, collection, analysis, organization and dissemination of graphic." Documentation is the process of identifying and annotating texts of information resources, data, photographs etc. It is also the process of providing written details or information about something. Documentation is defined as set of documents provided on paper, online as well as on digital and analogue media like audio, tapes, CDs etc.

“Organizing” literally, is a process of doing work or making arrangement for work, while “organization” is a structure in which the work takes place. Organization is a step or method of making logical arrangement of work of an enterprise as a part of management and administration. Organization may be termed as a process of making logical combination of various units of works to assign them to suitable workers in order to attain the avowed objectives of an enterprise or an institution or a library.

Sheldon defines organization as the process of so combining the work which individuals or groups have to perform. Organization involves identifying the activities and positions necessary to carry out library’s plan and purpose; logically grouping and arranging them according to their functional relationships, including work organization and job descriptions so as to assign them to respective personnel; defining the extent and scope of each department or unit and its included activities; and a statement of working relationships between the units and positions, and of the obligations, lines of authority or the span of control.

Preservation and conservation are measures aimed at achieving sustainability of library resources both the print and electronic resources as long as possible in their original format. The way they are handled can affect the life span of the records contained in them. Records must be preserved and conserved for future use because every generation desire to leave a mark of documented issues, concerns, ideas, discourse and events, a legacy in the form of documented matter for posterity. The preservation and conservation issue are complicated by the diverse nature of library resources, both in composition and structure. The concept preservation, refer to all necessary strategies, measures and steps invested into prolonging the lives of library information resources.

According to Lasisi (1999), preservation is used to denote all those activities and measures intended at conserving library materials for posterity. Murray (2005) explained that preservation is an indirect method of treatment in which the environment around an item is changed such as stabilizing, maintaining and monitoring temperature, humidity, light exposure, air pollution, dirt, dust and mold. preservation also includes surveying the proper storage and handling techniques, security, including theft, vandalism, disaster prevention, education, training and outreach programs for staff, patrons, clients, and the public, while conservation is a direct method of treatment in which an item is physically or chemically changed.

Alegbeleye (2002) on the other hand, clearly states that there are few misconceptions in the use of preservation and conservation. He explains that the terms preservation and conservation are used interchangeably. But strictly speaking experts in the field draw a distinction between the two words. Preservation includes all the managerial and financial considerations, including storage and accommodation provisions, staffing levels, policies, techniques and methods involved in preserving library and archival materials and information contained in them.

Conservation on the other hand, refers to specific practices taken to slow deterioration and prolong the life of an object by directly intervening in its physical or chemical make-up. Conservation therefore, is the treatment of library resources to stabilize their physical structure in order to sustain their survival as long as possible. It also means accessibility; when a user needs it, he gets it. Hence, the whole process of security, shelving, shelf-reading and circulation are actually preservation techniques.

Reasons for Records Management in Sharia Courts.

Mnjama and Wamukoya (2004) point out that records are valuable assets that need to be managed and protected. Besides providing essential evidence of organizational activities, transactions and decisions, records also support business functions and are critical for the assessment of organizational performance. The authors also say that without reliable records, governments cannot effectively manage state resources, civil service, delivery of services such as education and health care.

Moreover, without accurate and reliable records, and effective systems to manage them, governments cannot be held accountable for their decisions and actions, and the rights and entitlements of citizens and corporate bodies cannot be upheld.

Shepherd and Yeo (2003) note that there are three key values which can be met by good records: First, organizations use records in the conduct of current business, to enable decisions to be made and actions taken. Records provide access to precedents and policies, and evidence of what was done or decided in the past. They enable the organization to guard against fraud and to protect their rights and assets.

Secondly, organizations use records to support accountability, when they need to prove that they have met their obligations or complied with best practice or established policies. Organizations are accountable in many ways, to meet legal, regulatory and fiscal requirements, undergo audits and inspections, or provide explanations for what was done. Internally, records are used to prove or assess performance. External accountability is especially important to public sector bodies, which are responsible for their actions to government and the wider public.

The ability of citizens to engage effectively with the local government, and their trust in public agencies, is often contingent upon availability of information. Relevant information, complete and concise, put together in an easily understandable format, and made available to the public either proactively or upon request, can go a long way in enhancing transparency and improving citizen participation in local government (Urban Governance Toolkit 2004).

Records provide a reliable, legally verifiable source of evidence of decisions and actions. They document compliance or non-compliance with laws, rules and procedures (World Bank 2000). Records play a crucial role in most human endeavours and they are essential to all our business and social interactions. Perhaps the best summary of the usefulness of records is that which is provided by Piggott (2002) a senior information solutions consultant with the world bank who says that without access to good records, officials are forced to take decisions on an ad hoc basis without the benefit of institutional memory, fraud cannot be proven, meaningful audits cannot be carried out and government actions are not open to review.

According to ISO 15489-1 (2001), World Bank (2005) and IRMT (2005) the reasons for effective records management include:

- Effective management of state resources
- Supporting accountability by providing reliable records of actions and decisions
- Assigning responsibilities and authorities
- Protection of rights and entitlements
- Providing services to citizens
- Providing continuity in the event in the event of a disaster
- Meeting legislative and regulatory requirements and

- Maintaining corporate, personal or collective memory
- To empower all stakeholders in the litigation process to the expeditious resolution of disputes,
- To promotes the court ability to manage the litigation and adjudication process
- To minimize delays
- To reduce cost of litigation and Promotion of substantive justice.

Documentation of Sharia Records in Kaduna State

In the visits undertaken by the researcher to some of the Sharia Courts at Zaria and Kaduna among other things, contrary to the ideal situation, it was discovered by the researcher that record books of courts proceedings are heaped on the floor. In some other courts, the records are packed in cupboards and in improperly ventilated accommodations with no provision of spaces for people that may wish to consult the courts' records for various reasons. Impliedly, there is no provision for specific staff to manage the records.

Even with this, for one to be attended to, as far as consulting the records is concerned, clearance has to be secured from the Courts' Judges before having access to the records. Additionally, some of the Courts' clerks who take records of proceedings have bad handwritings that become difficult to read with ease and the jottings are distorted making them meaningless. It was discovered that the clerks, do not have adequate training in the languages of communications such as the use of punctuations to give the desired and proper meanings of the proceedings in the courts. Therefore, this research is set to delve into these abnormal situations as they affect the management and accessing the Sharia courts' records with a view to minimizing or even doing away with these chronic problems to pave way to create and maintain the ideal situation.

Skills Required for Managing Records in Sharia Courts

Skills are defined as the basic procedures for doing things rightly that will give out a result.

Skills can be divided into two: Manual and automated skills include the following:

1. Retention of records

Records retention schedule outlines how long records should be kept from an operational and legal standpoint, and that out dated records are disposed of in a timely, systematic manner. When determining the retention period for your records, it's important to:

- Perform a record inventory of all physical and electronic records
- Establish a standardized record classification system
- Conduct research on all federal, state, and local requirements.

2. Policies and procedures

- Our records management programme should support policies and procedures both legally and operationally. Policies and procedures set the standard for a compliant records management system. They should include the management of all records and media types, including email. You may have separate policies for records retention, active files, unused files, emails, and several other areas of information management.
- The records management policies and practices should be communicated clearly and applied consistently throughout your organization. Uniformity and consistency are key drivers to set the foundation for a successful records management practice. When

delivered in a proper, well-strategized manner, policies and procedures will work simultaneously with your business continuity plan and disaster recovery programme.

Accessing, indexing and storage

A contributing factor of a successful records management program is the ability to access your information when it's needed. Courts need to obtain information quickly for everyday operations and compliance requirements.

Indexing parameters, including date, subject matter, creator, and location of the record, are essential to retrieving information promptly and efficiently. Depending on the information type – whether electronic or physical, although storage locations may vary.

Electronic records can be stored and retrieved from an online document management system, also known as DMS. For archived documents that are required by law to be kept in physical form, offsite records storage facilities protect information in climate-controlled environments, freeing up office space. By finding a provider that offers scan-on-demand services for records stored offsite, you can quickly retrieve documents anytime, anywhere.

Obstacles in Management of Sharia Courts Records

The records in most Nigerian sharia courts especially in Kaduna state has been facing some numbers of problems; these had affected the accessibility and utilization of recorded information, as information needed on each court verdict is not being accessible on time or is not even available. These constraints are as follows:

Inadequate Funding

Digital projects are expensive. Digitization of records requires enormous funding due to frequent hardware and software upgrades, and increasing cost of subscription to electronic databases, this makes them easily accessed by information seekers globally (Jain, 2012).

Computer Phobia

Due to inadequate skills in information technology in Africa, many traditional librarians, record keepers and archivists are conservatives and have phobia for computers.

Technical Expertise

One of the biggest challenges to preservation and conservation of sharia courts records in developing countries is educating the record keepers in the community on the best ways to handle court records. This challenge is exacerbated by the fact that preservation of records is not at the centre of most sharia courts curricula.

Lack of Legislation/Policy

Wamukoya and Mutula (2005) observed that legislators in Africa are neither aware of, nor conversant with the requirements of digital preservation and for that reason; they either ignore or inadequately cover digital preservation issues. The Internet links is also a challenge to digitization because of copyright legislation.

Inadequate record keeping policy

Record keeping is a major constraint in information and record management in Nigeria. It has been established in literature that there is a significant correlation between poor records keeping practices and corruption.

Large quantity of records

Ropper and Millar (1999) argue that records are basics to legal systems. They added that large volumes of records tend to accumulate after a relatively short period. The authors further mention that courts usually have a backlog of cases waiting to be heard.

Storage

According to IRMT (2002), courts create many records in a short time which need storages to be kept. Many countries do not have enough resources for physical infrastructure. The problem of storage is one of the major problems in management of court records.

Lack of resources

IRMT (1999) mention that although Information Technology has been introduced in many countries, many developing countries do not have the technical capacity, management infrastructures, hardware and software support facilities or trained personnel to support the wholesale introduction of computers within the public sector.

Lack of trained personnel

IRMT (1999) pointed out that, legal records must be kept properly from their creation to disposal by trained personnel.

Conclusions and Recommendations

It is now clear that records management is far from the ideal situation and practice in Kaduna state. In view of this situation, the Government should be up and doing in providing adequate funding to the judiciary to enable it handle and solve pressing problems that have to do with finance. Avenues for periodical training and course should be provided by the government and other stakeholders with adequate supervision.

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